REMARKS

Applicants have thoroughly considered the Examiner's remarks in the August 27, 2004 Office action. Claims 1-31 are presented in the application for further examination. Claims 1, 3, 14, 19, and 31 have been amended by this Amendment A to more clearly set forth the present invention. Reconsideration of the application claims as amended and in view of the following remarks is respectfully requested.

Drawings

With respect to the drawings, applicants have amended FIG. 1 to include a "PRIOR ART" legend as suggested by the Examiner.

Claim Rejections - 35 U.S.C. §112

Claims 3-7, 14, and 31 stand rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Amended claim 3 recites that the reference system has programs *previously* staged thereon and further defines "staging" as set forth in claim 1 to include copying *an image of the reference system* to the storage medium of the destination computer. In one embodiment, "[s]taging a program involves copying the needed installation files to a target machine but not fully integrating the staged program with the operating system. In other words, a staged installation of a program can be accomplished by indicating the name of the setup file and the location of the setup files along with a desired destination." Application page 10, lines 5-9. Applicants submit that amended claim 3, and claims 4-7 depending therefrom, clearly define the subject matter of the present invention when read in light of the specification. Thus, these claims comply with 35 U.S.C. §112.

With respect to claim 14, applicants have amended the dependency as suggested by the Examiner.

Amended claim 31 clearly defines "a first data field including data identifying a plurality of staged programs." As such, applicants believe claim 31 is complies with 35 U.S.C. §112.

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Claim Rejections - 35 U.S.C. §101

Claim 31 stands rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. To support the rejection of claim 31, the Office action states that the claim limitations do not impart functionality when employed as a computer component and do not specify a physical or logical relationship among data elements. According to the Supreme Court, however, Congress intended statutory subject matter to include "anything under the sun that is made by man."[1] Applicants concede the three categories of unpatentable subject matter identified by the Supreme Court, namely, "laws of nature, natural phenomena, and abstract ideas."[2] But the subject matter of claim 31 falls outside these three non-statutory categories.

Amended claim 31 recites a data structure storing "a customizable configuration script" for directing the destination computer in "identifying at least one of the staged programs for later installation on the destination computer based on the data identifying the plurality of staged programs." For a better understanding of the functional aspects of claim 31, applicants direct the Examiner to the specification. For example, "computer 110" in one embodiment "operates in an environment in which scripts are used to create the reference system image. A configuration script (e.g., a text file such as WINBOM.INI) preferably directs the installation utility FACTORY.EXE and controls the order in which programs are installed or staged on the reference system and re-boots the reference system as necessary." Application page 11, lines 16-21.

In light of the foregoing, applicants submit that amended claim 31 imparts functionality and specifies a relationship among data elements such that it overcomes the section 101 rejection.

Claim Rejections - 35 U.S.C. §102

Claims 1-3, 10, 11, 13-15, 18-23, 25, 28, and 31 stand rejected under 35 U.S.C. §102(e) as being unpatentable over Harding (U.S. Pat. No. 5,794,052). Applicants respectfully disagree and submit that the Office action does not provide full weight to the language of the claims and the recitations specified therein. Although applicants believe that the claims as originally filed

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[1] *Diamond v. Chakrabarty*, 447 U.S. 303, 309 (1980).

[2] *Diamond v. Diehr*, 450 U.S. 175, 185 (1981).

are distinguishable over the cited references, this Amendment A more clearly sets forth the claimed invention.

With respect to claim 1, the Office action states that the Harding patent teaches "staging" because it describes downloading software program modules from a mass data storage device to a hard disk drive. In contrast to merely downloading programs as taught by Harding, applicants' claimed invention includes "*staging* one or more programs on a storage medium of the destination computer for *later installation* on the destination computer, said staging the programs comprising *storing installation files* for the programs on the destination computer" and "*attaching the selected program* to complete the installation thereof on the destination computer."

For example, an original equipment manufacturer (OEM) can create a reference on a blank system hard drive for use in building destination computers for ultimate distribution to end users. Rather than fully installing a program, the OEM can set up the reference system so that it stages the program (*i.e.*, copies the needed installation files locally). In this manner, the program is available in the reference image for later installation. As described in the present application, staging a program involves copying the needed installation files to a target machine but not fully integrating the staged program with the operating system, which occurs when the program is attached. In one embodiment, a staged installation of a program can be accomplished by indicating the name of the setup file and the location of the setup files along with a desired destination. Attaching the selected staged program involves incremental processing to fully install the software (*e.g.*, final placement of registry entries, desktop shortcuts, shared files, etc.). See application page 10, lines 3-9 and page 13, lines 7-9.

Advantageously, the staging of programs, as opposed to downloading and fully installing them as taught by Harding, requires less memory. For this reason, a greater number of high attach rate programs may be available in a reference image for a given storage space. This provides a greater variety of final system configurations. Moreover, staging saves the OEM time if it chooses to install a particular application at a later time because it does not need to, for example, copy the application installation files over a network or from a CD, or run the installation over the network as described in the Harding patent. See application page 11, lines 6-12.

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In light of the foregoing, applicants submit the cited art fails to teach or suggest each and every aspect of claim 1. Therefore, claim 1 is believed to be allowable over the cited art. Claims 2-18 depend from claim 1 and are believe to be allowable for at least the same reasons as claim 1.

Claim 19 is directed to a system for configuring a computer. The system of claim 19 includes a reference computer having *programs staged thereon for later installation* and a destination computer executing instructions to attach an identified program to *complete the installation* of the identified program on the destination computer. Inasmuch as the Harding patent merely teaches downloading software program modules from a mass data storage device to a hard disk drive, applicants submit that claim 19 is allowable over the cited art. Claims 20-30 are believed to be allowable for at least the same reasons as claim 19 from which they depend.

Amended claim 31 recites a data structure storing "a customizable configuration script" for directing the destination computer in identifying at least one of the *staged programs for later installation* based on the data identifying the staged programs. Applicants submit that the Harding patent fails to teach or suggest this aspect of staging as claimed by applicants in claim 31. Therefore, claim 31 is believed to be allowable over the cited art.

Claim Rejections - 35 U.S.C. §103

Claims 4-7, 12, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Harding patent in view of "Microsoft Windows 2000 Server Unleashed" by Brown et al.

In this instance, the Brown reference fails to remedy the deficiencies of the primary reference noted above. The Brown reference is entirely silent as to the aspect of *staging* a program for *later installation* on the destination computer by *storing installation files* for the programs on the destination computer as set forth in the claims. Therefore, applicants submit that the Harding and Brown references, whether considered separately or together fail to teach or suggest each and every feature of the claimed invention. Therefore, the rejection under section 103 should be withdrawn.
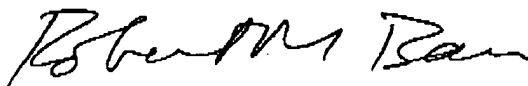
Conclusion

It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully

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requested. Although the prior art made of record and not relied upon may be considered

pertinent to the disclosure, none of these references anticipates or makes obvious the recited

invention. If the Examiner feels, for any reason, that a personal interview will expedite the

prosecution of this application, he is invited to telephone the undersigned.

Any required fees or overpayments should be applied to Deposit Account No. 19-1345.

Respectfully submitted,

Robert M. Bain, Reg. No. 36,736
SENNIGER POWERS
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

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